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March 10, 2009

Hon. Susan D. Wigenton, U.S.D.J.
United States District Court, District of New Jersey
M.L. King, Jr. Federal Building, Courtroom 5C
Newark, NJ 07102

Re: USA v. Keith Stewart et als.
Criminal No.: 08-346

Dear Judge Wigenton:

On behalf of defendant Keith Stewart, please accept this letter brief to address *in limine* reciprocal discovery in the form of evidence of heroin alleged to have been seized by government agents from a motor vehicle park in front of the Mr. Stewart's residence (106 Richelieu Terrace, Newark, NJ), that was occupied by Taurey Tineo. Mr. Stewart objects to this proffered evidence for the reasons stated below, and respectfully requests a ruling in this matter prior to opening statements.

STATEMENT OF ISSUE

On February 13, 2008, Taurey Tineo is alleged to have occupied a motor vehicle outside of the residence of Mr. Stewart. It is alleged that said motor vehicle contained 75 bricks of heroin. It is noted that while F.R.E. 402 provides that all relevant evidence is admissible, F.R.E. 403, provides that relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, or misleading the jury, ... or needless presentation of cumulative evidence."

In this case, the government has also seized heroin from inside the home of Mr. Stewart. The heroin seized outside of the home is objected to because:

1. Mr. Tineo is not a co-defendant in the indictment of Mr. Stewart;
2. Admitting said heroin would unfairly prejudice Mr. Stewart and confuse and mislead the jury;
3. There is no evidence that Mr. Tineo entered the home of Mr. Stewart on 2/13/08; and
4. Admitting the said evidence would represent a needless presentation of cumulative evidence.

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Respectfully submitted

/s/ Linwood A. Jones

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LAJ/laj

cc: AUSA Matthew Beck, Esq.
Anna Cominsky, Esq.
Keith Stewart